



Commonwealth
of Massachusetts

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Office of Campaign and Political Finance

One Ashburton Place, Room 411

Boston, MA 02108

Advisory Opinion

October 6, 1998

AO-98-21

John J. Clarke, Advocacy Director
Massachusetts Audubon Society
208 South Great Road
Lincoln, MA 01773

Re: Solicitation of contributions from members

Dear Mr. Clarke:

This letter is in response to your September 1, 1998 request for an advisory opinion.

The Massachusetts Audubon Society (Mass. Audubon) would like to actively support the Cape Cod Land Bank ballot question, which will be on the ballot in November. General operating funds will be used for a get-out-the-vote campaign directed at Audubon members only. Most of the funds that will be used for this purpose have been raised throughout the year from memberships, gifts and donations.

In addition, however, Mass. Audubon would like to solicit donations from members. The donations would be used for the purpose of enhancing Mass. Audubon's efforts to encourage members to vote for the ballot question.

Question

Does the campaign finance law allow Mass. Audubon to solicit contributions payable to Mass. Audubon from members without forming a ballot question committee for that purpose?

Answer

No.

Discussion

The campaign finance law defines a “ballot question committee” as any association, organization, or other group of persons, “which receives or expends money or other things of value for the purpose of favoring or opposing a charter change, referendum question, constitutional amendment, or other question submitted to the voters . . .” See M.G.L. c. 55, § 1. Such a committee must organize and file campaign finance reports and is subject to certain limitations specified in the campaign finance law.

If Mass. Audubon were to solicit contributions for the purpose of supporting a ballot question it would be operating as a political committee. Mass. Audubon could, however, solicit contributions **on behalf of** an existing ballot question committee. In that instance, the contributions would need to be made payable to the ballot question committee – not Mass. Audubon. See AO-98-01 (corporation could solicit contributions as an agent of a PAC, but if the corporation solicited contributions made payable to the corporation and then deposited the checks prior to making expenditures to support or oppose candidates, the corporation would itself be operating as a political committee).

Mass. Audubon may establish a ballot question committee to perform the solicitation. In January 1997 the Society organized a ballot question committee (“the Mass. Audubon Society Ballot Question Committee”) for the purpose of promoting passage of the Massachusetts Wildlife Protection Act. If Mass. Audubon intends to raise funds to influence the Land Bank question, a new committee should first be organized.¹

This opinion is issued solely within the context of the campaign finance law and is provided on the basis of representations in your letter and conversations with OCPF staff. Please contact us if you have further questions regarding the campaign finance law.

Sincerely,

A handwritten signature in black ink, reading "Michael J. Sullivan", followed by a horizontal line.

Michael J. Sullivan
Director

MJS/cp

¹ The Land Bank question is on the ballot in 15 Cape Cod municipalities. I understand that Mass. Audubon plans to support the questions on the ballot in each municipality. The committee should register and file with OCPF rather than with each municipal election official. See IB-90-02.